

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SENATE BILL 1592

AN ACT

AMENDING SECTIONS 32-1164 AND 42-2003, ARIZONA REVISED STATUTES; RELATING TO CONTRACTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1164, Arizona Revised Statutes, is amended to
3 read:

4 32-1164. Violation; classification; probation; sentence
5 suspension

6 A. Commission by a contractor of any of the following acts is a class
7 1 misdemeanor:

8 1. Any act specified in section 32-1154, subsection A, paragraph 7
9 or 10.

10 2. Acting in the capacity of a contractor within the meaning of this
11 chapter without a license.

12 B. For the first offense under subsection A of this section, a
13 contractor shall be fined not less than one thousand dollars. For the second
14 or any subsequent offense under subsection A of this section, a contractor
15 shall be fined not less than two thousand dollars.

16 C. IF A PERSON IS CONVICTED OF A VIOLATION OF SUBSECTION A OF THIS
17 SECTION AND THE COURT SENTENCES THE PERSON TO A TERM OF PROBATION, THE COURT
18 SHALL ORDER THAT AS CONDITIONS OF PROBATION THE PERSON DOES ALL OF THE
19 FOLLOWING:

20 1. PAYS IN FULL ALL TRANSACTION PRIVILEGE TAX OR USE TAX AMOUNTS THAT
21 ARE DUE UNDER TITLE 42, CHAPTER 5, ARTICLE 2 OR 4 AND THAT ARISE FROM THE
22 ACTS OR OMISSIONS CONSTITUTING THE VIOLATION.

23 2. PAYS IN FULL ALL TRANSACTION PRIVILEGE OR USE TAX AMOUNTS THAT ARE
24 DUE TO THE COUNTY IN WHICH THE VIOLATION OCCURRED AND THAT ARISE FROM THE
25 ACTS OR OMISSIONS CONSTITUTING THE VIOLATION.

26 3. PAYS IN FULL ALL TRANSACTION PRIVILEGE OR USE TAX AMOUNTS THAT ARE
27 OWED TO THE LOCAL MUNICIPAL GOVERNMENT, CITY OR TOWN IN WHICH THE VIOLATION
28 OCCURRED AND THAT ARISE FROM THE ACTS OR OMISSIONS CONSTITUTING THE
29 VIOLATION.

30 Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to read:

31 42-2003. Authorized disclosure of confidential information

32 A. Confidential information relating to:

33 1. A taxpayer may be disclosed to the taxpayer, its successor in
34 interest or a designee of the taxpayer who is authorized in writing by the
35 taxpayer. A principal corporate officer of a parent corporation may execute
36 a written authorization for a controlled subsidiary.

37 2. A corporate taxpayer may be disclosed to any principal officer, any
38 person designated by a principal officer or any person designated in a
39 resolution by the corporate board of directors or other similar governing
40 body.

41 3. A partnership may be disclosed to any partner of the partnership.
42 This exception does not include disclosure of confidential information of a
43 particular partner unless otherwise authorized.

44 4. An estate may be disclosed to the personal representative of the
45 estate and to any heir, next of kin or beneficiary under the will of the

1 decedent if the department finds that the heir, next of kin or beneficiary
2 has a material interest which will be affected by the confidential
3 information.

4 5. A trust may be disclosed to the trustee or trustees, jointly or
5 separately, and to the grantor or any beneficiary of the trust if the
6 department finds that the grantor or beneficiary has a material interest
7 which will be affected by the confidential information.

8 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
9 to confidentiality either in writing or on the record in any administrative
10 or judicial proceeding.

11 7. The name and taxpayer identification numbers of persons issued
12 direct payment permits may be publicly disclosed.

13 B. Confidential information may be disclosed to:

14 1. Any employee of the department whose official duties involve tax
15 administration.

16 2. The office of the attorney general solely for its use in
17 preparation for, or in an investigation which may result in, any proceeding
18 involving tax administration before the department or any other agency or
19 board of this state, or before any grand jury or any state or federal court.

20 3. The department of liquor licenses and control for its use in
21 determining whether a spirituous liquor licensee has paid all transaction
22 privilege taxes and affiliated excise taxes incurred as a result of the sale
23 of spirituous liquor, as defined in section 4-101, at the licensed
24 establishment and imposed on the licensed establishments by this state and
25 its political subdivisions.

26 4. Other state tax officials whose official duties require the
27 disclosure for proper tax administration purposes if the information is
28 sought in connection with an investigation or any other proceeding conducted
29 by the official. Any disclosure is limited to information of a taxpayer who
30 is being investigated or who is a party to a proceeding conducted by the
31 official.

32 5. The following agencies, officials and organizations, if they grant
33 substantially similar privileges to the department for the type of
34 information being sought, pursuant to statute and a written agreement between
35 the department and the foreign country, agency, state, Indian tribe or
36 organization:

37 (a) The United States internal revenue service, alcohol and tobacco
38 tax and trade bureau of the United States treasury, United States bureau of
39 alcohol, tobacco, firearms and explosives of the United States department of
40 justice, United States drug enforcement agency and federal bureau of
41 investigation.

42 (b) A state tax official of another state.

43 (c) An organization of states, federation of tax administrators or
44 multistate tax commission that operates an information exchange for tax
45 administration purposes.

1 (d) An agency, official or organization of a foreign country with
2 responsibilities that are comparable to those listed in subdivision (a), (b)
3 or (c) of this paragraph.

4 (e) An agency, official or organization of an Indian tribal government
5 with responsibilities comparable to the responsibilities of the agencies,
6 officials or organizations identified in subdivision (a), (b) or (c) of this
7 paragraph.

8 6. The auditor general, in connection with any audit of the department
9 subject to the restrictions in section 42-2002, subsection D.

10 7. Any person to the extent necessary for effective tax administration
11 in connection with:

12 (a) The processing, storage, transmission, destruction and
13 reproduction of the information.

14 (b) The programming, maintenance, repair, testing and procurement of
15 equipment for purposes of tax administration.

16 8. The office of administrative hearings relating to taxes
17 administered by the department pursuant to section 42-1101, but the
18 department shall not disclose any confidential information:

19 (a) Regarding income tax, withholding tax or estate tax.

20 (b) On any tax issue relating to information associated with the
21 reporting of income tax, withholding tax or estate tax.

22 9. The United States treasury inspector general for tax administration
23 for the purpose of reporting a violation of internal revenue code section
24 7213A (26 United States Code section 7213A), unauthorized inspection of
25 returns or return information.

26 10. The financial management service of the United States treasury
27 department for use in the treasury offset program.

28 11. The United States treasury department or its authorized agent for
29 use in the state income tax levy program and in the electronic federal tax
30 payment system.

31 12. The department of commerce for its use in both:

32 (a) Qualifying motion picture production companies for the tax
33 incentives provided for motion picture production under chapter 5 of this
34 title and sections 43-1075 and 43-1163.

35 (b) Fulfilling its annual reporting responsibility pursuant to section
36 41-1517, subsection ~~L~~ M.

37 13. A PROSECUTOR FOR PURPOSES OF SECTION 32-1164, SUBSECTION C.

38 C. Confidential information may be disclosed in any state or federal
39 judicial or administrative proceeding pertaining to tax administration
40 pursuant to the following conditions:

41 1. One or more of the following circumstances must apply:

42 (a) The taxpayer is a party to the proceeding.

43 (b) The proceeding arose out of, or in connection with, determining
44 the taxpayer's civil or criminal liability, or the collection of the

1 taxpayer's civil liability, with respect to any tax imposed under this title
2 or title 43.

3 (c) The treatment of an item reflected on the taxpayer's return is
4 directly related to the resolution of an issue in the proceeding.

5 (d) Return information directly relates to a transactional
6 relationship between a person who is a party to the proceeding and the
7 taxpayer and directly affects the resolution of an issue in the proceeding.

8 2. Confidential information may not be disclosed under this subsection
9 if the disclosure is prohibited by section 42-2002, subsection C or D.

10 D. Identity information may be disclosed for purposes of notifying
11 persons entitled to tax refunds if the department is unable to locate the
12 persons after reasonable effort.

13 E. The department, upon the request of any person, shall provide the
14 names and addresses of bingo licensees as defined in section 5-401, verify
15 whether or not a person has a privilege license and number, a distributor's
16 license and number or a withholding license and number or disclose the
17 information to be posted on the department's web site or otherwise publicly
18 accessible pursuant to ~~sections~~ SECTION 42-1124, subsection F and SECTION
19 42-3201, subsection A.

20 F. A department employee, in connection with the official duties
21 relating to any audit, collection activity or civil or criminal
22 investigation, may disclose return information to the extent that disclosure
23 is necessary to obtain information which is not otherwise reasonably
24 available. These official duties include the correct determination of and
25 liability for tax, the amount to be collected or the enforcement of other
26 state tax revenue laws.

27 G. If an organization is exempt from this state's income tax as
28 provided in section 43-1201 for any taxable year, the name and address of the
29 organization and the application filed by the organization upon which the
30 department made its determination for exemption together with any papers
31 submitted in support of the application and any letter or document issued by
32 the department concerning the application are open to public inspection.

33 H. Confidential information relating to transaction privilege tax, use
34 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
35 be disclosed to any county, city or town tax official if the information
36 relates to a taxpayer who is or may be taxable by the county, city or town.
37 Any taxpayer information released by the department to the county, city or
38 town:

39 1. May only be used for internal purposes.

40 2. May not be disclosed to the public in any manner that does not
41 comply with confidentiality standards established by the department. The
42 county, city or town shall agree in writing with the department that any
43 release of confidential information that violates the confidentiality
44 standards adopted by the department will result in the immediate suspension

1 of any rights of the county, city or town to receive taxpayer information
2 under this subsection.

3 I. The department may disclose statistical information gathered from
4 confidential information if it does not disclose confidential information
5 attributable to any one taxpayer. In order to comply with the requirements
6 of section 42-5029, subsection A, paragraph 3, the department may disclose to
7 the state treasurer statistical information gathered from confidential
8 information, even if it discloses confidential information attributable to a
9 taxpayer.

10 J. The department may disclose the aggregate amounts of any tax
11 credit, tax deduction or tax exemption enacted after January 1, 1994.
12 Information subject to disclosure under this subsection shall not be
13 disclosed if a taxpayer demonstrates to the department that such information
14 would give an unfair advantage to competitors.

15 K. Except as provided in section 42-2002, subsection C, confidential
16 information, described in section 42-2001, paragraph 2, subdivision (a), item
17 (iii), may be disclosed to law enforcement agencies for law enforcement
18 purposes.

19 L. The department may provide transaction privilege tax license
20 information to property tax officials in a county for the purpose of
21 identification and verification of the tax status of commercial property.

22 M. The department may provide transaction privilege tax, luxury tax,
23 use tax, property tax and severance tax information to the ombudsman-citizens
24 aide pursuant to title 41, chapter 8, article 5.

25 N. Except as provided in section 42-2002, subsection D, a court may
26 order the department to disclose confidential information pertaining to a
27 party to an action. An order shall be made only upon a showing of good cause
28 and that the party seeking the information has made demand upon the taxpayer
29 for the information.

30 O. This section does not prohibit the disclosure by the department of
31 any information or documents submitted to the department by a bingo
32 licensee. Before disclosing the information the department shall obtain the
33 name and address of the person requesting the information.

34 P. If the department is required or permitted to disclose confidential
35 information, it may charge the person or agency requesting the information
36 for the reasonable cost of its services.

37 Q. Except as provided in section 42-2002, subsection D, the department
38 of revenue shall release confidential information as requested by the
39 department of economic security pursuant to section 42-1122 or
40 46-291. Information disclosed under this subsection is limited to the same
41 type of information that the United States internal revenue service is
42 authorized to disclose under section 6103(1)(6) of the internal revenue code.

43 R. Except as provided in section 42-2002, subsection D, the department
44 of revenue shall release confidential information as requested by the courts
45 and clerks of the court pursuant to section 42-1122.

1 S. To comply with the requirements of section 42-5031, the department
2 may disclose to the state treasurer, to the county stadium district board of
3 directors and to any city or town tax official that is part of the county
4 stadium district confidential information attributable to a taxpayer's
5 business activity conducted in the county stadium district.

6 T. The department shall release confidential information as requested
7 by the attorney general for purposes of determining compliance with and
8 enforcing section 44-7101, the master settlement agreement referred to
9 therein and subsequent agreements to which the state is a party that amend or
10 implement the master settlement agreement. Information disclosed under this
11 subsection is limited to luxury tax information relating to tobacco
12 manufacturers, distributors, wholesalers and retailers and information
13 collected by the department pursuant to section 44-7101(2)(j).

14 U. For proceedings before the department, the office of administrative
15 hearings, the board of tax appeals or any state or federal court involving
16 penalties that were assessed against a return preparer or electronic return
17 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
18 information may be disclosed only before the judge or administrative law
19 judge adjudicating the proceeding, the parties to the proceeding and the
20 parties' representatives in the proceeding prior to its introduction into
21 evidence in the proceeding. The confidential information may be introduced
22 as evidence in the proceeding only if the taxpayer's name, the names of any
23 dependents listed on the return, all social security numbers, the taxpayer's
24 address, the taxpayer's signature and any attachments containing any of the
25 foregoing information are redacted and if either:

26 1. The treatment of an item reflected on such return is or may be
27 related to the resolution of an issue in the proceeding.

28 2. Such return or return information relates or may relate to a
29 transactional relationship between a person who is a party to the proceeding
30 and the taxpayer which directly affects the resolution of an issue in the
31 proceeding.

32 V. The department may disclose to the attorney general confidential
33 information received under section 44-7111 and requested by the attorney
34 general for purposes of determining compliance with and enforcing section
35 44-7111. The department and attorney general shall share with each other the
36 information received under section 44-7111, and may share the information
37 with other federal, state or local agencies only for the purposes of
38 enforcement of section 44-7101, section 44-7111 or corresponding laws of
39 other states.